HIGH COURT OF UTTARANCHAL AT NAINITAL

A.O. No. 426 of 2003

Murtuza Ahmad Beg & others ..... Appellants

Versus

Swaraj Kumar ..... Defendant

Dated: 27.9.2004

Hon. Rajesh Tandon J.

Heard the learned counsel for the parties.

The present appeal has been field against the order dated 4.12.2003 passed by the Addl. District Judge, Dehradun in Original Suit No. 390 of 2000.

Briefly stated the facts giving rise to the present appeal are that the appellant has field a suit for permanent injunction restraining the defendant from making any interference in the possession of the plaintiff over the land described in schedule Ka attached with the plaint. The defendant has filed a written statement and claimed that he had purchased the land in question from one Mr. Alok Kumar Sani and also sought relief of injunction against the plaintiff. Against the counter claim the plaintiff appellants field written statement and the defendant also field replication. The appellant plaintiffs filed an application for temporary injunction against the defendants against which objections were field by the defendant. During

the pendency of the suit an application for inspection of the spot was filed by the defendant respondent which was allowed and an Amin was appointed by the Court for local inspection. Thereafter survey of the land in dispute was got done by the trial Court through Amin. The trial Court on 4.12.2003 restrained the plaintiffs appellants from making any interference in the possession of the defendant over the property situates in 154/1 Chukhoowala, Dehradun during the pendency of the suit. Feeling aggrieved the plaintiffs appellants have field the present appeal.

The order passed by the trial Court does not affect the rights of the parties as it is an order passed at the intermediate stage during the pendency of the suit and it does not have any effect on the final disposal of the suit.

However, the parties have agreed that the trial Court is directed to decide the suit finally within four months after the receipt of the certified copy of this order. The parties are directed to maintain status quo and no construction shall be made on the land in dispute.

Subject to the aforesaid observation, the appeal is disposed of. No order as to costs.

(Rajesh Tandon J.)

27.9.2004
*Dhyani